



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
GREATER ATLANTIC REGIONAL FISHERIES OFFICE  
55 Great Republic Drive  
Gloucester, MA 01930-2276

MAR 21 2018

Evelyn MacKnight  
Associate Director  
Water Protection Division  
U.S. EPA Region 3  
1650 Arch St., Philadelphia, PA, 19103

Re: 2018 Triennial Review of DC Water Quality Standards

Dear Ms. MacKnight:

We have completed our consultation under section 7 of the Endangered Species Act (ESA) in response to your original February 7, 2018 letter and March 5, 2018 revised letter, regarding the above-referenced proposed project. We reviewed your (the action agency) consultation request document and related materials. Based on our knowledge and your materials, we concur with your conclusion that the proposed action is not likely to adversely affect any ESA-listed species or designated critical habitat under our jurisdiction. Therefore, no further consultation pursuant to section 7 of the ESA is required.

Overall we agree with your analysis, but would like to offer several clarifications. You correctly state that Atlantic sturgeon from any DPS may be present in the action area; however, only adults and sub-adults of any DPS could be present. Any early life stages or spawning adults in the action area would be from the Chesapeake Bay DPS, only. In your effects analysis, you state that the ammonia standards are "protective of sturgeon." For ESA section 7 purposes you need to make a determination that the effects to sturgeon are insignificant or discountable. We interpret your analysis to mean that the ammonia standard is set such that effects to ESA listed species are extremely unlikely and are therefore discountable. We note that you make a "no effect" determination for PBF 2. We agree with your analysis in your introduction that discusses the tendency for cadmium to bind readily with soft sediments, and would like to clarify that because of this, cadmium may be bioavailable to benthic feeders such as sturgeon, and also that the cadmium may become a part of the actual physical feature (soft sediment) protected under PBF 2. Because of this your determination regarding the revised standards is better defined as discountable, as effects are extremely unlikely to occur. This is because the cadmium criteria is set below levels that could potentially affect juvenile and foraging Atlantic sturgeon. Also, because you have made an overall "not likely to adversely affect" determination for the effects to critical habitat, you do not need to also make a no "destruction or adverse modification" determination as you have done on page 22. Only in cases where adverse effects to critical habitat are likely would you need to analyze the effects at this level.

Reinitiation of consultation is required and shall be requested by the Federal agency or by the Service, where discretionary Federal involvement or control over the action has been retained or



is authorized by law and: (a) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in the consultation; (b) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation or; (c) If a new species is listed or critical habitat designated that may be affected by the identified action. No take is anticipated or exempted. Should you have any questions about this correspondence please contact Chris Vaccaro at (978) 281-9167 or by email ([christine.vaccaro@noaa.gov](mailto:christine.vaccaro@noaa.gov)).

For questions related to Essential Fish Habitat please contact Kristy Beard with our Habitat Conservation Division at (301)-427-8413 or at ([kristy.beard@noaa.gov](mailto:kristy.beard@noaa.gov)).

Sincerely,



Julia E. Crocker  
Acting Assistant Regional Administrator  
for Protected Resources

EC: Vaccaro, PRD; Beard, HCD; Adair, EPA

PCTS: NER-2018-14778

File Code: H:\Section 7 Team\Section 7\Non-Fisheries\EPA\Informal\2018\DC WQS